



LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Child Protection Act and Protection of Vulnerable Children

Diyani Indrawati

Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia,
E-mail: diy.in311@gmail.com

Abstract. *Children are the next generation and a crucial foundation for the nation's future development. However, there is a significant gap between comprehensive national regulations and the empirical reality of child protection in Indonesia. This study examines the legal framework of the Indonesian Child Protection Law and the state's constitutional obligations towards vulnerable children. Using juridical-normative research methods and descriptive-qualitative analysis of secondary legal materials, this paper examines the structural and cultural barriers that hinder the effective implementation of child protection laws. The study's findings indicate that although Indonesia has a variety of legal instruments, their effectiveness is severely hampered by weak law enforcement mechanisms, limited resources, and strong sectoral egos among law enforcement officials and social institutions. Furthermore, child protection practices often tend to be reactive and repressive rather than prioritizing preventive and rehabilitative efforts. The study concludes that fulfilling the absolute constitutional mandate regarding child protection requires a fundamental shift towards the principle of "the best interests of the child," a transition towards restorative justice, and structural deconstruction that shifts state obligations from mere rhetoric of compassion to strategic macro-national development policies.*

Keywords: *Best Interests of Children; Child Protection Law; Normative Jurisprudence; State Obligations; Vulnerable Children.*

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

1. Introduction

Children are the nation's next generation, playing a strategic role in the sustainability of national development and the future of the nation. From a human development perspective, children are at the most vulnerable stage in the life cycle because all of their physical, cognitive, emotional, and social aspects are still developing. This vulnerability is not a weakness, but rather a natural consequence of incomplete developmental stages. Therefore, children require special protection from the state, family, and society to enable them to grow and develop optimally.

Children's natural dependence on the surrounding subsystems demands legal certainty that is not merely passive, but proactive and protective. In contemporary legal discourse, failure to provide a safe space for children to grow up during this phase of self-formation will have a multiplier effect that reduces the quality of a nation's human resources in the future. Therefore, children's sociological and biological vulnerabilities must be transformed into absolute positive legal rights, with the state acting as the primary guarantor through the formulation of policies that institutionalize child protection as a pressing public issue, no longer merely a domestic family matter.

Child protection is an inseparable part of respect for human rights. Every country has an obligation to guarantee the fulfillment of children's rights and protect them from various forms of violence, exploitation, discrimination, and neglect. In Indonesia, this commitment is reflected in the Preamble to the 1945 Constitution of the Republic of Indonesia, which emphasizes the state's goal of protecting all Indonesians and all of Indonesia's territory. In addition, Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia expressly states that every child has the right to survive, grow, and develop, and has the right to protection from violence and discrimination.

Indonesia's commitment to child protection is also demonstrated through the ratification of the Convention on the Rights of the Child (CRC) through Presidential Decree Number 36 of 1990. This convention emphasizes four basic principles of child protection: non-discrimination, the best interests of the child, the right to survival and development, and the right for children to participate in all decisions concerning their lives. These four principles serve as the normative basis for the implementation of the child protection system in Indonesia.



LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

The adoption of this international legal instrument demands a fundamental repositioning of domestic policy governance, requiring states to align written regulations with resource allocation on the ground. The legal consequences of ratifying the Convention on the Rights of the Child are not merely a diplomatic formality, but rather a legal obligation for the government to formulate a blueprint for child protection that is inclusive and responsive to gender issues and children's needs. The urgency of this alignment becomes even more crucial when faced with Indonesia's demographic reality, where the large child population demands effective laws that are not only doctrinally robust but also adaptive to diverse social vulnerabilities.

As a country with a very large child population, Indonesia faces complex challenges in providing protection for children. Data from the Central Statistics Agency (BPS) in 2023 showed that the number of people under 18 reached approximately 79.5 million, or 29.4 percent of the total national population. This figure demonstrates that children are both a valuable national asset and the group most vulnerable to various threats of human rights violations.

In order to guarantee protection for children, the government has established various legal instruments, including Law Number 23 of 2002 concerning Child Protection, which was later updated through Law Number 35 of 2014 and strengthened by Law Number 17 of 2016. These regulations provide a comprehensive legal basis for child protection and emphasize the state's responsibility in ensuring that children's rights are fulfilled.

Environmental and social changes are exacerbating these threats. Various forms of violence against children continue to occur and show a worrying trend. Data from the Indonesian Child Protection Commission (KPAI) in 2021 recorded 5,953 cases of child rights violations, the majority of which occurred in the child's immediate environment, including the family. In addition to physical and psychological violence, children also face the threat of sexual violence, economic exploitation, child trafficking, bullying, and various forms of information technology-based crimes such as cyberbullying and online sexual exploitation.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

This phenomenon demonstrates a gap between existing legal norms and their implementation in society. Although the state has various legal instruments to protect children, the implementation of these protections has not been optimal. Law enforcement against perpetrators of violence often fails to provide a deterrent effect, while prevention and victim recovery mechanisms still face various obstacles. This situation indicates that the state's responsibility to provide protection for children as a vulnerable group has not been fully implemented effectively.

From a human rights perspective, the state has three primary obligations (state duties): to respect, protect, and fulfill the rights of citizens, including children's rights. Therefore, child protection is viewed not merely as a moral obligation but also as a constitutional and international legal obligation that must be diligently implemented by the state.

Based on the explanation above, it is important to conduct an in-depth study of the Child Protection Law and the protection of vulnerable children. This study is relevant to assessing the extent to which the state has fulfilled its obligations and identifying various obstacles contributing to the persistently high number of child rights violations in Indonesia. Therefore, this research focuses on analyzing the legal framework related to child protection, juvenile justice, the child welfare system, education policy, and preventive measures against exploitation and violence.

2. Research Methods

The type of research used in this study is normative juridical. This research was conducted by reviewing library materials to explore and analyze various literature related to the problem under study. The analysis used is qualitative, utilizing secondary data, namely primary legal materials and secondary legal materials. Primary legal materials are binding and include basic norms or rules—specifically in this study, in the form of basic regulations and laws related to child protection.

Meanwhile, secondary legal materials provide further explanations regarding the primary legal materials obtained through library research. Data collection techniques are carried out through document studies. Next, the obtained data are analyzed descriptively-qualitatively by explaining existing theories or conditions realistically, logically, and systematically to produce a scientific study.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

3. Results and Discussion

3.1. Children's Status as a Vulnerable Group

Vulnerability is a condition that can cause change or impact the lives of individuals, groups, and communities. The vulnerability that triggers these changes becomes a threat because it creates a weak situation that is easily influenced by various parties who perceive themselves as powerful. Furthermore, in certain areas, vulnerability has numerous negative impacts on individuals, families, and communities. Various factors contribute to vulnerability within a group, including cultural, economic, biological, and psychological factors.

These factors trigger negative impacts on vulnerable groups in certain areas, such as increased crime, group division, behavioral deviations, and widespread unemployment. These conditions of vulnerability lead individuals or communities experiencing them to be referred to as vulnerable groups. Just like vulnerability itself, the existence of vulnerable groups also impacts community life. This is due to the lack or limited assets and access these vulnerable groups possess.

Asset limitations encompass both physical and non-physical limitations. Physical limitations refer to the loss of limb function due to accidents or congenital defects, as experienced by people with disabilities; conversely, non-physical limitations refer to the lack of ownership of land, wealth, or housing, as experienced by poor communities. In addition to asset limitations, there are also access limitations that arise from certain groups that hinder a person's access to meeting their needs.

In line with this, Article 5 paragraph (3) of Law Number 39 of 1999 explains that basically every individual who is included in a vulnerable community group has the right to receive better treatment and protection related to the special characteristics they have. In addition, it is also stated that the elderly, children, the poor, pregnant women, and people with disabilities are included in the vulnerable group category.

Children are a highly vulnerable group because they are not yet able to meet their own needs independently, and therefore remain under the control of their parents or other adults. Therefore, children need the help of others to develop their abilities. By nature, children are highly vulnerable to various obstacles and challenges in their lives, both socially and psychologically.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Therefore, the role of the government and those closest to them, including parents, siblings, friends, and neighbors, is crucial in providing protection and care. Every adult is also obligated to fulfill children's rights.

However, in the current era, it is often found that children have not received their rights adequately. Indonesian children also do not receive proper legal protection; this is evidenced by the increasing number of violations against children, such as cases of violence, street children, children without birth certificates, children in conflict with the law, HIV/AIDS cases, children who are victims of drug abuse, children suffering from malnutrition, child labor, children who drop out of school, victims of commercial sexual exploitation, and so on.

The various problems affecting these children indicate that the current real conditions are truly very concerning. However, the current empirical reality shows a significant gap (*das Sein*) between the regulatory framework for child protection and the fulfillment of children's rights in the field (*das Sollen*). Indonesian children are still often in a vulnerable position due to the suboptimal integration of the legal protection system. This phenomenon is reflected in the escalation of violations of children's rights both in terms of quantity and quality that occur across a wide spectrum.

These vulnerabilities include children as victims of domestic violence and violence in public spaces, the rise of street children, and the neglect of their right to legal identity due to the lack of birth certificates (children without documents).

Furthermore, this grim picture is exacerbated by complex issues related to children in conflict with the law (ABH), stigmatization of children with HIV/AIDS, and children who are victims of drug and substance abuse; compounded by multidimensional threats such as malnutrition (stunting) and economic exploitation through child labor and the phenomenon of school dropouts. This emergency situation has reached a critical point with the rise in cases of commercial sexual exploitation of children (CSEC), which degrades their dignity and humanity.

This series of systemic problems is not merely a social anomaly, but rather an objective indicator that the current state of fulfillment and protection of children's rights in Indonesia is alarming. This legal gap underscores the urgency of reconstructing criminal law and social policies to fully realize the constitutional mandate regarding absolute child protection.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

One clear example of human rights violations against children is human trafficking. In 2021, Indonesia ranked second in the world for the highest number of human trafficking cases. Human trafficking is an activity that violates human rights, particularly those involving minors. In this practice, perpetrators typically use sexual violence, threats, and torture to induce victims to be trafficked.

According to IOM data, there were 318 cases of Human Trafficking (TPPO) recorded in 2019. This figure then increased to 400 cases in 2020. Furthermore, of the total child trafficking victims, 80% experienced sexual exploitation. Based on this case data, it can be concluded that the number of cases of TIP continues to increase year after year. One example of a human rights violation, particularly children's rights, is sexual violence against children. In fact, cases of sexual violence against children occur due to a lack of attention and inadequate protection for children.

3.2. Child Protection Regulations Within the National Legal Framework

Child protection has become an issue of increasing global concern, including in Indonesia. Amidst various social, economic, and cultural changes, children are often the most vulnerable group to various forms of violence, exploitation, and neglect. Efforts to protect children's rights and ensure their well-being have become an undeniable priority. In this context, it is crucial to conduct a comprehensive review of the legal framework, policy implementation, and challenges faced in child protection in Indonesia.

Doctrinally, the urgency of protecting children's rights is based on the concept that the state holds the primary responsibility (*parens patriae*) to intervene and mitigate all forms of sociological and economic threats that hinder children's growth and development. Realizing this commitment requires a paradigm shift, from a merely reactive response to cases of violence to the establishment of a responsive and comprehensive legal system.

Therefore, strengthening the domestic regulatory framework is a crucial instrument in bridging the ideals of international child protection law into the national positive legal system, in order to create legal certainty and implement protection instruments that can be implemented effectively in the field.

Research shows that Indonesia has various legal instruments that cover child protection, both directly and indirectly. Law Number 35 of 2014 concerning Child Protection is the main regulation that contains the principles of child protection, such as the right to life, the right to grow and develop, and the right to protection

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

from violence, exploitation, and discrimination. In addition, there are also sectoral laws that also provide protection, including:[2]

No	National Regulations	Scope of Protection
1	Law No. 35 of 2014	Children's rights in general, prohibition of violence, special protection for children
2	Law No. 13 of 2003	Prohibition on employing children under 18 years of age
3	Law No. 11 of 2008 (ITE)	Protection against child exploitation in digital media
4	Law No. 21 of 2007	Protection of children from human trafficking and sexual exploitation
5	Criminal Code	Criminal sanctions against perpetrators of violence or sexual violence against children
6	Law No. 12 of 2005 (ICCPR)	Application of human rights principles to vulnerable groups, including children.

Normatively, the Child Protection Law provides fairly comprehensive protection. However, the main problem lies not in the lack of regulation, but in the effectiveness of its implementation. Many vulnerable children still experience violence, exploitation, and discrimination due to weak supervision, limited resources, and low public legal awareness.

Therefore, the child protection paradigm must shift from a solely repressive approach to a preventive and rehabilitative approach based on the best interests of the child.

Given these disparities in implementation, the urgency of criminal law enforcement and child protection requires structural deconstruction that simultaneously addresses the substance, structure, and culture of the law. Weak oversight and limited sectoral resources are often rooted in sectoral egos among law enforcement officials and social institutions, resulting in partial and unsustainable case handling.

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Consequently, the principle of the best interests of the child often remains merely normative jargon in investigative files, without truly being realized in comprehensive psychological and social recovery measures for children.

Therefore, a paradigm shift toward a preventive and rehabilitative approach demands the strengthening of an integrated and child-friendly justice system. The state must no longer position a coercive-repressive approach as the sole "ultimum remedium" but must prioritize restorative justice and protective measures in the form of early intervention.

Through this reorientation, positive law will function not only as an instrument for punishing perpetrators but also proactively shift its role to become a protective shield that guarantees the fulfillment of children's basic rights in the future.

The law not only provides general protection for all children, but also provides special protection for children in vulnerable situations, such as children who are victims of violence, children in conflict with the law, children with disabilities, children who are victims of exploitation, and various other vulnerable groups. The success of child protection depends not only on the existence of regulations but also on the commitment of the state, families, communities, and all stakeholders to creating a safe, just, and child-friendly environment.

3.3. State Responsibility in Child Protection

Human rights place individuals or citizens as rights holders, while the state acts as the party that bears obligations; that is, the state is responsible for protecting, respecting, and fulfilling the human rights of all its citizens.

Articles 20 to 26 of Law Number 23 of 2002 emphasize that the government has given authority in the form of obligations or responsibilities to parents or families, the entire community, and various institutions to provide all forms of legal protection for children, especially vulnerable children.

Within the framework of constitutional law and human rights, this delegation of responsibility does not necessarily eliminate the state's primary responsibility. Rather, the provisions of Articles 20 to 26 of Law Number 23 of 2002 must be understood as complementary instruments in the decentralization of duties.

The state retains a crucial role as both regulator and facilitator, ensuring that every entity—whether family, community, or private sector—has the capacity and adequate access to carry out these protection functions. Without strict state

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

oversight and control, this delegation of responsibility risks becoming mere rhetoric that marginalizes children's rights when systemic failures occur at the grassroots level.

Furthermore, viewing children as national assets requires a paradigm shift from compassionate protection to protection as a strategic investment. Children are not merely objects to be pitied, but rather legal subjects who are vital components for the nation's future sustainability (human capital).

Therefore, recognition of children's rights must be integrated into macro-level national development policies, where every public policy must be tested for its relevance and impact on child welfare. Success in raising, educating, and protecting children today is a key determinant of the nation's integrity and competitiveness in the future.

One way for a state to ensure the welfare of its citizens is by providing protection to safeguard state assets and wealth for the sake of a bright national future. Therefore, to realize the nation's desired future, there are various principles that can serve as guidelines for providing protection for children, including:

1. Principle of Non-Discrimination

This principle states that every child has the right to protection without discrimination. Every state is obliged to uphold, protect, guarantee, and fulfill the various rights affirmed in the CRC within its respective legal jurisdiction by eliminating all forms of discrimination. The principle of non-discrimination is a universal or general principle that applies to all international human rights provisions. The CRC requires every state party to play an active role in observing, observing, or identifying any child who may require special measures.

2. The Principle of the Best Interests of the Child

This principle explains that all forms of child protection must be aimed at what is important and best for the child. Article 3 paragraph (1) of the Convention on the Rights of the Child (CRC) emphasizes that the best interests of the child must be the primary and fundamental consideration in decision-making involving children.

This principle stipulates that every action taken by one or more parties, whether family or parents, public institutions, or private parties seeking to advance the social welfare of children, must consider the positive impact of the action. In

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

addition, both executive and judicial institutions are obliged to consider the aspect of the child's best interests.

3. Principle of the Right to Life, Survival and Development Article 6 of the Convention on the Rights of the Child (CRC) paragraphs (1) and (2) explains that every state party is obliged to guarantee the survival and development of every child (Convention on the Rights of the Child, 1989). The state's guarantee of children's right to life can be realized through the provision of a conducive environment, access to basic needs, and adequate facilities and infrastructure to support life's needs.

4. Principle of Respect for Children's Views

In the process of fulfilling children's rights, the Convention on the Rights of the Child (CRC) pays attention to the opinions of each child, as explained in Article 12 paragraph (1) of the CRC, which states that each state party is obliged to guarantee the child's ability to express their opinion freely in all matters affecting them, and to give appropriate weight to the child's views according to their age and level of maturity.

The state's responsibility also includes ensuring that every child has access to education; this means that the state is obliged to provide education for every child, whether they are abandoned, disabled, underprivileged, or living in remote areas, considering that education is the government's top priority for the nation's future.

Furthermore, armed with adequate education and strong knowledge, every parent is expected to be able to guide, teach, educate, and embrace their children towards optimal growth and development, free from crime or violence. Another form of state responsibility is the obligation to disseminate the Convention on the Rights of the Child to socialize children's rights to all parties tasked with serving children, so that they can be protected from all forms of crime.

4. Conclusion

Indonesia currently has a strong legal basis through Law Number 6. Based on a comprehensive analysis of the legal framework and empirical realities related to child protection in Indonesia, two main conclusions can be drawn:

1. Gap between Regulation and Implementation: Indonesia has a strong and comprehensive legal framework, based on the Child Protection Law (Law No. 35 of 2014) and the ratification of the International Convention on the Rights of the

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Child. Normatively, these instruments provide clear guarantees for children's rights. However, there is a wide gap (between *das Sein* and *das Sollen*) between the ideals of this law and its implementation on the ground. The increasing cases of child trafficking, sexual violence, cyberbullying, and economic exploitation indicate that the effectiveness of existing legal substances is severely hampered by structural weaknesses, limited resources, and fragmented law enforcement due to sectoral egos between institutions.

2. The Urgency of Paradigm Transformation: The protection of vulnerable children can no longer be viewed as a passive issue or merely a domestic family affair. In line with international human rights standards and the mandate of the 1945 Constitution, the state is obliged to fully fulfill its role as the party bearing primary responsibility (*parens patriae*). To effectively protect children as vital national assets (human capital), the current model of law enforcement and social change must fundamentally shift from a reactive, punitive, and coercive-repressive approach to a proactive, preventive, and rehabilitative strategy. The legal system must fully implement the principle of "the best interests of the child" and integrate child-friendly restorative justice into macro national development policies to ensure absolute protection for the nation's future.

5. References

Journals:

- Amran Manurung, dkk, Kajian Sistematis terhadap Regulasi Perlindungan Anak dalam Kerangka Hukum Nasional dan Internasional, *Law Science and Politics Journal*, Vol. 1, No. 1, (2025), p. 4.
- Biatila Elsa Duey Repali, Perbandingan Hukum Pidana Perlindungan Anak diBawah Umur antara Indonesia dan Amerika Serikat, *Journal of science*, Vol. 3, No. 1, (2023), p. 17.
- Hendra Fikry Cindhy Wirawan, Pemenuhan Hak Kelompok Rentan Khusus Disabilitas Di Lapas Kelas I Madiun. Nusantara, *Jurnal Ilmu Pengetahuan Sosial*, Vol. 8 No. 3, (2021), p. 238–244.
- Annes Magdalena Hutagalung, Ayu Riza Fitria, Tanggung Jawab Negara Terhadap Perlindungan Anak Sebagai Kelompok Rentan Dalam Perspektif Hak Asasi Manusia, *Jurnal Hukum*, Vol. 24. No. 2, (2023), p. 1.
- Kunti Widayati, Pelaksanaan Pemenuhan Hak Korban Pelanggaran Hak Asasi Manusia Genosida Berdasarkan Undang-Undang No.26 Tahun 2000, *Jurnal Legalitas*, Vol. 2. No. 2, (2017), p. 9.



LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Books:

Marzuki, Peter Mahmud, *Penelitian Hukum Normatif*. (Jakarta: Kencana Prenada, 2010), p. 34.